

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DANIEL L. GORMAN,

Plaintiff,

v.

5:08-cv-0251

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

APPEARANCES:

OF COUNSEL:

OLINSKY, SHURTIFF LAW FIRM
300 S. State Street
5th Floor
Syracuse, NY 13202
Counsel for Plaintiff

HOWARD OLINSKY, ESQ.

Office of Regional General Counsel
Social Security Administration
Region II
26 Federal Plaza - Room 3904
New York, NY 10278
Counsel for Defendant

Suzanne M. Haynes, Esq.

NORMAN A. MORDUE, CHIEF U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge Victor E. Bianchini, duly filed on the 24th day of November 2009. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. Defendant's motion for judgment on the pleadings is denied. Plaintiff's cross-motion for judgment on the pleadings is granted in part and denied in part and remanded for reconsideration.
3. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: December 10, 2009
Syracuse, New York



Norman A. Mordue
Chief United States District Court Judge